

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE  
(PPA) PRODUCTS LIABILITY  
LITIGATION,

MDL NO. 1407

This document relates to

Pamela Stowe v. Bayer Corpora-  
tion, No. 4-cv-2351.

ORDER DENYING PLAINTIFF'S  
MOTION TO QUASH DEPOSITION  
NOTICES AND PETITION FOR  
SUGGESTION OF REMAND ORDER

Before the court is plaintiff's motion to quash the deposition notices of Ruth Matthews, R.N. and Trina Scupin, R.N. Having reviewed the motion, the opposition filed and the reply thereto, the court hereby finds and rules as follows:

Plaintiff alleges she suffered a stroke as the result of ingesting a PPA-containing product manufactured by Bayer Corporation. She initially filed suit in state court, in Philadelphia County, Court of Common Pleas, Pennsylvania, in August 2001. Her case was ultimately transferred to this court as part of MDL 1407 on February 7, 2005. Plaintiff asserts that Bayer has intentionally delayed the case from going to trial by failing to pursue discovery in a timely manner. Plaintiff objects

## ORDER

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1 to Bayer's current request to depose two nurses that treated  
2 plaintiff for her injuries and requests that the court quash the  
3 notices of their depositions.

4 The court finds that Bayer is entitled to depose Nurse  
5 Matthews and Nurse Scupin. The reason it has taken four years for  
6 this case to reach its current state of discovery is that  
7 plaintiff first filed suit in the wrong court (Pennsylvania).  
8 Then, after the action was dismissed on *forum non conveniens*  
9 grounds, conditioned on Bayer waiving service and the Arizona  
10 Statute of Limitations, plaintiff filed in a second wrong court  
11 (New Jersey). After that action was dismissed, plaintiff waited  
12 six months before filing her action in Arizona. Fact discovery  
13 could not begin until the case was transferred and docketed in  
14 MDL 1407, which did not occur until February 7, 2005. Further,  
15 plaintiff did not complete the Plaintiff's Fact Sheet ("PFS")  
16 until August 17, 2005, which she then supplemented on August 31,  
17 2005 and again on September 6, 2005.

18 Per the Case Management Orders in MDL 1407, the case-  
19 specific fact discovery deadline expires one year from the date  
20 on which the PFS is substantially complete in all respects.  
21 However, Bayer has agreed to shorten the discovery period to six  
22 months, to February 14, 2006. The court finds this reasonable.

23 Based on the foregoing, the court DENIES plaintiff's motion  
24 to quash and sets the case-specific fact discovery deadline in  
25 this case to and including February 14, 2006. The court expects  
26

1 the plaintiff to cooperate in all respects with discovery. In  
2 addition, because outstanding discovery remains in this matter,  
3 the court DENIES plaintiff's petition for suggestion of remand.

4 DATED at Seattle, Washington this 23<sup>rd</sup> day of November,  
5 2005.

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7 BARBARA JACOBS ROTHSTEIN  
8 UNITED STATES DISTRICT COURT JUDGE